



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Patrick L. Connor
Serial No. : 09/749,215
Filed : December 27, 2000
Title : RELAY OF A DATAGRAM

Art Unit : 2141
Examiner : Quang N. Nguyen

MAIL STOP PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Under 37 CFR § 1.181, applicant hereby petitions to withdraw a Holding of Abandonment under 37 CFR §1.135 for failure to respond to the Office Action mailed March 16, 2005. Applicant's petition is based on failure to receive the office action.¹ Applicant also notes that a Notice of Abandonment has not been received.

The undersigned, applicant's attorney of record first became aware of the office action on June 5, 2006, after the office action was retrieved from PAIR during a status check of the application and submits that this petition to withdraw the Holding is being promptly submitted.

A search of the file jacket and docket records indicates that the Office Action was not received by the undersigned.

The following documents are submitted herewith:

¹ In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. [MPEP 711.03(c)].

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

June 27, 2006

Signature

Melissa Krugger

Typed or Printed Name of Person Signing Certificate

Melissa Krugger

1. An original signed declaration by Anne M. Micco, the Docketing Administrator in the Patent Services Department at Fish & Richardson P.C., attesting on the basis of personal knowledge that the Office Action was not entered or docketed;
2. Manual Mail Log covering the period of March 1, 2005 through March 31, 2005;
3. Printed docket deadlines occurring June 16, 2005; and
4. A reply to the Office Action of March 16, 2005.

Based on the foregoing evidence, applicant submits that the Office Action was never received and requests that the Holding of Abandonment be withdrawn and that the enclosed Reply to Office Action be accepted as a response to the Office Action mailed March 16, 2005.

While no fees are believed due at this time, please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 10559-367001.

Respectfully submitted,

Date:

June 27, 2006



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